# REMARKS

In the Office Action, the Examiner made a restriction/election requirement final and withdrew claims 6, 7, 10 and 13-21. In addition, the Examiner rejected claim 1 under 35 USC §102(e), and rejected claims 2-5 under 35 USC §103(a). These rejections are fully traversed below.

Claim 2 has been amended to further clarify the subject matter regarded as the invention. New claims 23-33 have been added to the application. Claims 6, 7, 10-21 are cancelled without prejudice or disclaimer. Claims 1-5 and 22-33 are now pending.

Reconsideration of the application is respectfully requested based on the following remarks.


## PATENTABILITY OF CLAIMED INVENTION

In the Office Action, the Examiner rejected claim 1 under 35 USC §102(e) as being anticipated by Kessner (U.S. Patent 6,754,701); and rejected claims 2-5 under 35 USC §103(a) as being obvious over Kessner in view of Nesbitt et al. (U.S. Patent 6,418,544). Applicants respectfully disagree with these rejections.

Kessner describes a load testing system for testing a web site or other type of server system. The load test system uses a thread architecture that reduces the computing resources needed to generate a desired load. The system uses a plurality of virtual users to simulate user interactions with a web site. Further, col. 3, lines 43-57 state:

> The load testing system 100 uses a virtual user component 102, or "Vuser," that simulates a client program's interaction with a web site 120 during a user browsing session. Each Vuser 102 sends requests to the web site 120 according to a pre-defined test script (Vuser script) 108. The script 108, which may be different for different Vusers, may be in the form of a list of the hypertext transfer protocol (HTTP) requests to be sent to the web server. The script may also specify the content of expected server responses. The script may be read from a script file by the Vuser during execution, or may be compiled within the executable Vuser code. Each request may also be a secure HTTP or HTTPS request, a file transfer protocol (FTP) request, or any type of request that may be handled by a server.

Accordingly, Kessner teaches simulating a load on a web site through use of a plurality of Vusers which simulate client program interaction with a web site. The Vusers follow a script of HTTP requests. Kessner even contrasts its scripts to web browsers stating:

> Under actual, **non-test conditions**, each client computer 104 typically only executes **one web browser at a time**. In other words, only one person can typically browse the web on one computer at a time. In a **test configuration**, however, there is little or no advantage to executing only one Vuser 102 on each computer 104 -- indeed ·this would be an inefficient use of resources. ...A load testing system 100, therefore, typically **runs multiple Vusers** on each client computer 104 to create the desired load.

Kessner, col. 4, lines 22-34 [emphasis added].

In sharp contrast to Kessner's use of Vusers, the claimed invention generates a load on a web site using real web browsers. Kessner teaches against use of a web browser and touts its Vusers. However, according to the present invention, testing of a website can be provided, and elegantly so, through use of multiple web browsers operating on a computer.

More particularly, claim 2 recites: "wherein when said load testing component is activated, a number of multiple copies of said test-enabled web browser operate on a single client machine having its cache turned off, with each of the multiple copies of said test-enabled browser separately executing a playback script" (claim 2, lines 7-10). That is, claim 2 recites use of multiple copies of a test-enabled browser to emulate a load on a web site. Hence, the load testing of the claimed invention is accurate of actual loading. For example, in Kessner, no state or session information is known, as is the case with HTTP which is stateless. Advantageously, using a plurality of real web browsers as with the claimed invention is able to maintain states/sessions and provides more accurate loading which thus properly emulates actual loading of the web site.

Further, as to claim 1, a network browser application has built-in capabilities for performing analysis and testing of websites residing on the Internet. Kessner uses Vusers to simulate loading to a web site. These Vusers are explicitly not network browser applications.

Nesbitt et al. is not able to overcome the above-noted deficiencies of Kessner.

Based on the foregoing, it is submitted that claims 1 and 2 are patentably distinct from Kessner, alone or in combination with Nesbitt et al. In addition, it is submitted that dependent claims 3-5 are also patentably distinct for at least the same reasons. The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from Kessner and/or Nesbitt et al. Thus, it is respectfully requested that the Examiner withdraw the rejections under 35 USC §§ 102(e), 103(a).

Moreover, although claims 1-5 are submitted to be patentably distinct from Kessner, it should further be noted that Applicants had their invention well before the filing date of Kessner. Submitted herewith is a Declaration of Prior Inventorship by the inventors for the above-identified patent application, thereby eliminating Kessner as prior art in this application.

## SUMMARY

It is submitted that the rejection of claims 1-5 should be withdrawn. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 50-0388 (Order No. EVLDP001).

Respectfully submitted,
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